

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Streamlining Deployment of Small Cell)	WT Docket No. 16-421
Infrastructure by Improving Wireless Facilities)	
Siting Policies)	
)	
Mobilitie, LLC Petition for Declaratory Ruling)	

COMMENTS OF THE ILLINOIS MUNICIPAL LEAGUE

These Comments are filed by the Illinois Municipal League (“IML”) in response to the Public Notice, released December 22, 2016, in the above-entitled proceeding.

INTRODUCTION

The IML is a not-for-profit, non-political association of 1,259 municipalities in the State of Illinois. State statute designates it as an instrumentality of its members. 65 ILCS 5/1-8-1 (West 2014). The IML's mission is to articulate, defend, maintain and promote the interests and concerns of Illinois communities.

MUNICIPALITIES HAVE A PUBLIC DUTY TO REGULATE THE RIGHT-OF-WAY

Illinois state law provides municipalities extensive discretion with respect to permitted uses, special uses, and variances with respect to land uses. This discretion is rooted in the variety of urban, suburban, and rural small/medium communities and how land use planning impacts each type of community differently. Different land uses within a municipality may necessitate different siting and aesthetic requirements. These specific needs must be addressed in the application process and require municipalities to examine applications on an individual basis to ensure collocation requests are structurally sound given the location.

Along with safety and structural concerns, municipalities must maintain the aesthetic value of their right-of-way. Municipalities have a duty to their residents to protect the welfare of the public, which includes making capital improvements to the right-of-way. Many municipalities in Illinois have invested money and time in bettering the aesthetic value of their downtowns and historic neighborhoods in order to attract businesses, consumers, and residents. These efforts have included, for example, undergrounding and camouflaging lines along main commercial routes, which can cost municipalities significant amounts of money to complete and requires auxiliary equipment (transformers, junction boxes, amplifiers, etc.) to be placed in underground vaults, or placed in consolidated locations, mounted on the ground, and landscaped. The siting

application process must ensure that municipalities are able to approve collocation requests that are aesthetically appropriate to each location.

MUNICIPALITIES ARE WORKING PROACTIVELY TO DEPLOY WIRELESS INFRASTRUCTURE

In Illinois, the right-of-ways is held as a public trust. Other than joint utility locating, control and management of the right-of-way is not controlled by the state and is the responsibility of municipalities and counties. In 2007, the IML prepared a model Right-of-Way Control Ordinance based on best practices that addressed siting of public utilities. Many Illinois communities have adopted the model ordinance.

In 2016, the IML worked with municipal attorneys and attorneys from the telecommunications industry to create a model Small Cell Antenna/Tower Right-of-Way Siting Ordinance that dovetails with the 2007 model Right-of-Way Control Ordinance. It represents an effort by Illinois municipalities and the IML to develop reasonable standards intended to strike a balance between the needs of wireless carriers to improve capacity and density, and the needs of municipalities to preserve proper use of the right-of-way with a focus on safety and protection of other utilities located in the right-of-way.

INDUSTRY SHOULD DO MORE VOLUNTARILY TO IMPROVE WIRELESS SITING

Mobilitie's Petition for Declaratory Ruling attempts to address the cost of permitting by suggesting that municipalities should only be able to charge a minimal fee for processing the permit. That fee would essentially amount to the time it takes a permit technician to review only the permit form. It does not include the cost of plan review, either in-house or by an outside contractor, or the cost of permit inspection, again either by an in-house inspector or outside contractor. It also does not include the cost of staff time to review information required from the carrier if the tower or wireless facility is subject to a special use permit based on its proposed location within the municipality.

Illinois municipalities are allowed to pass through the costs of these permit-related functions to a wireless carrier under Illinois law. If Mobilitie indeed considers itself to be a utility, it should be treated the same way as any other wireless carrier with regard to paying for the true costs of permitting, including staff time, review and inspection.

CONCLUSION

The IML thanks the Commission for its efforts to better understand the work being done at the local government level to ensure safe, responsible deployment of wireless infrastructure, particularly those built in the public right-of-way. IML strongly urges the Commission to consider these comments, as well as those submitted by communities across the country, before taking any action that may adversely affect local governments' right-of-way authority.

Respectfully submitted,

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